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8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues  
12 Against:

Case No. *2013-539*

13 **RAINA LYNN DEMORROW**  
14 **aka RAINA LYNN TRUSSLER**  
15 **aka RAINA LYNN RUSHING**

**STATEMENT OF ISSUES**

15 Registered Nurse License Applicant

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Statement of Issues solely in  
20 her official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
21 Consumer Affairs (Board).

22 2. On or about June 7, 2010, the Board received an application for a Registered Nurse  
23 License from Raina Lynn Demorrow also known as Raina Lynn Trussler, also known as Raina  
24 Lynn Rushing (Respondent). On or about June 2, 2010, Raina Lynn Demorrow certified under  
25 penalty of perjury to the truthfulness of all statements, answers, and representations in the  
26 application. The Board denied the application on July 26, 2011.

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## JURISDICTION

3. This Statement of Issues is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

## STATUTORY PROVISIONS

4. Section 480 states, in pertinent part:

"(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.

(3) (A) Done any act that if done by a licensee of the business or profession in question, would be grounds for suspension or revocation of license.

(B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made. . . ."

5. Section 490 states, in pertinent part:

"(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

....

(c) A conviction within the meaning of this section means a plea or verdict of guilty or a

1 conviction following a plea of nolo contendere. Any action that a board is permitted to take  
2 following the establishment of a conviction may be taken when the time for appeal has elapsed, or  
3 the judgment of conviction has been affirmed on appeal, or when an order granting probation is  
4 made suspending the imposition of sentence, irrespective of a subsequent order under the  
5 provisions of Section 1203.4 of the Penal Code. . . ."

6 6. Section 492 states:

7 "Notwithstanding any other provision of law, successful completion of any diversion  
8 program under the Penal Code, or successful completion of an alcohol and drug problem  
9 assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of  
10 Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2  
11 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that  
12 division, from taking disciplinary action against a licensee or from denying a license for  
13 professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a  
14 record pertaining to an arrest.

15 This section shall not be construed to apply to any drug diversion program operated by any  
16 agency established under Division 2 (commencing with Section 500) of this code, or any  
17 initiative act referred to in that division."

18 7. Section 2736 provides that the Board may deny a license when it finds that the  
19 applicant has committed any acts constituting grounds for denial of licensure under section 480.

20 8. Section 2761 states, in pertinent part:

21 "The board may take disciplinary action against a certified or licensed nurse or deny an  
22 application for a certificate or license for any of the following:

23 (a) Unprofessional conduct, . . .

24 . . . .

25 (d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the  
26 violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice  
27 Act] or regulations adopted pursuant to it.

28 . . . .

1 (f) Conviction of a felony or of any offense substantially related to the qualifications,  
2 functions, and duties of a registered nurse, in which event the record of the conviction shall be  
3 conclusive evidence thereof. . . ."

4 9. Section 2762 states, in pertinent part:

5 "In addition to other acts constituting unprofessional conduct within the meaning of this  
6 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this  
7 chapter to do any of the following:

8 . . . .

9 (b) Use any controlled substance as defined in Division 10 (commencing with Section  
10 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in  
11 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to  
12 himself or herself, any other person, or the public or to the extent that such use impairs his or her  
13 ability to conduct with safety to the public the practice authorized by his or her license.

14 (c) Be convicted of a criminal offense involving the prescription, consumption, or  
15 self-administration of any of the substances described in subdivisions (a) and (b) of this section,  
16 or the possession of, or falsification of a record pertaining to, the substances described in  
17 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence  
18 thereof. . . ."

#### 19 **REGULATORY PROVISION**

20 10. California Code of Regulations, title 16, section 1444 states, in pertinent part:

21 "A conviction or act shall be considered to be substantially related to the qualifications,  
22 functions or duties of a registered nurse if to a substantial degree it evidences the present or  
23 potential unfitness of a registered nurse to practice in a manner consistent with the public health,  
24 safety, or welfare. . . ."

#### 25 **CONTROLLED SUBSTANCES / DANGEROUS DRUGS**

26 11. Ativan, a brand name for Lorazepam, a benzodiazepine derivative, is a Schedule IV  
27 controlled substance as designated by Health and Safety Code section 11057, subdivision (d)(16),  
28 and is categorized as a dangerous drug pursuant to section 4022.

12. Amphetamine, is a Scheduled II controlled substance as defined in Health and Safety Code section 11055, subdivision (d)(1), and is categorized as a dangerous drug pursuant to section 4022.

13. Methamphetamine is a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivision (d)(2), and is categorized as a dangerous drug pursuant to section 4022.

14. Percocet, oxycodone and acetaminophen, is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b)(1), and is categorized as a dangerous drug according to section 4022.

### **FIRST CAUSE FOR DENIAL OF APPLICATION**

#### ***(Convictions of Substantially Related Crimes)***

15. Respondent's application is subject to denial under sections 480, subdivision (a)(1), and 2761, subdivision (f), in that Respondent was convicted of crimes substantially related to the qualifications, functions or duties of a registered nurse which to a substantial degree evidence her present or potential unfitness to practice in a manner consistent with the public health, safety, or welfare.

a. The convictions are as follows:

1) On or about February 3, 2012, after pleading nolo contendere, Respondent was convicted of one misdemeanor count of violating Penal Code section 166(a)(4) [disobey court order, restraining order after hearing] in the criminal proceeding entitled *The People of the State of California v. Raina Lynn Demorrow* (Super. Ct. San Bernardino County, 2011, No. MMB1100516). The Court sentenced Respondent to seven (7) days jail, placed her on 36 months probation, and ordered her to stay away from the victim. The circumstances underlying the conviction occurred on or about May 28, 2011, and Respondent was arrested.

2) On or about June 15, 2011, after pleading guilty, Respondent was convicted of one misdemeanor count of violating Penal Code § 166(a)(4) [disobey court order] in the criminal proceeding entitled *The People of the State of California v. Raina Lynn Demorrow* (Super. Ct. San Bernardino County, 2011, No. MMB1100150). The Court placed Respondent on 36 months

1 probation, ordered her to complete a 90 day Panorama Ranch program, and ordered her to comply  
2 with a domestic violence restraining order. The circumstances underlying the conviction  
3 occurred on or about April 12, 2011, and Respondent was arrested.

4 3) On or about May 27, 2011, after pleading guilty, Respondent was convicted of one  
5 misdemeanor count of violating Vehicle Code section 23152(b) [drive with an equal to or greater  
6 than 0.08% blood alcohol content (BAC)] in the criminal proceeding entitled *The People of the*  
7 *State of California v. Raina Lynn Demorrow* (Super. Ct. San Bernardino County, 2011, No.  
8 TMB1100125). The Court sentenced Respondent to four (4) days jail, placed her on 60 months  
9 probation, and ordered her to complete a Multiple Offender Alcohol Program. The circumstances  
10 underlying the conviction occurred on or about February 5, 2011, and Respondent was arrested.

11 4) On or about July 18, 2011, after admittedly failing Proposition 36 probation (Pen.  
12 Code § 1210.1) and a plea of guilty on or about January 14, 2011, Respondent was convicted of  
13 one misdemeanor count of violating Health and Safety Code section 11550(a) [under the  
14 influence of a controlled substance] in the criminal proceeding entitled *The People of the State of*  
15 *California v. Raina Lynn Demorrow* (Super. Ct. San Bernardino County, 2010, No.  
16 MMB1000390). The Court placed Respondent on three (3) years probation ending July 18, 2014,  
17 and ordered her to participate in drug counseling. The circumstances underlying the conviction  
18 are that on or about September 14, 2010, at about 3:51 a.m., Respondent was arrested after acting  
19 disoriented while in a shopping area parking lot, failing field sobriety tests, and admitting to  
20 drinking vodka and taking 2 Ativan pills and 1 Percocet pill. In addition, Respondent was in  
21 possession of a bottle of prescribed Lorazepam (Ativan). The Lorazepam prescription was filled  
22 on September 13, 2010, with directions to take two (2) pills a day. The Lorazepam prescription  
23 was filled with a quantity of 60 pills and the remaining count was 56 pills. Respondent tested  
24 positive for amphetamines, opiates and benzodiazepines.

25 5) On or about April 10, 2003, after pleading guilty, Respondent was convicted of one  
26 misdemeanor count of violating Vehicle Code section 23152(a) [drive while under the influence  
27 of alcohol/drugs] in the criminal proceeding entitled *The People of the State of California v.*  
28 *Raina Lynn Trussler* (Super. Ct. San Bernardino County, 2003, No. TMB022476). The Court

1 sentenced Respondent to two (2) days jail, placed her on 36 months probation, and ordered her to  
2 complete a First Offender Alcohol Program. The circumstances underlying the conviction  
3 occurred on or about March 6, 2003, and Respondent was arrested.

4 6) On or about June 4, 1998, after pleading nolo contendere, Respondent was convicted  
5 of one misdemeanor count of violating Health and Safety Code section 11550(a) [under influence  
6 of a controlled substance] in the criminal proceeding entitled *The People of the State of California*  
7 *v. Raina Lynn Trussler* (Super. Ct. San Bernardino County, 1998, No. MMB04833). The Court  
8 sentenced Respondent to 120 days jail, and placed her on 36 months probation. On or about May  
9 22, 2008, the Court dismissed the proceeding pursuant to Penal Code section 1203.4. The  
10 circumstances underlying the conviction occurred on or about April 16, 1998, and Respondent  
11 was arrested.

12 7) On or about June 4, 1998, after pleading nolo contendere, Respondent was convicted  
13 of one misdemeanor count of violating Health and Safety Code section 11550 [use/under the  
14 influence of a controlled substance] in the criminal proceeding entitled *The People of the State of*  
15 *California v. Raina Lynn Trussler* (Super. Ct. San Bernardino County, 1998, No. MMB04681).  
16 The Court sentenced Respondent to 120 days jail, and placed her on 36 months probation. On or  
17 about November 4, 1999, the Court dismissed the proceeding pursuant to Penal Code section  
18 1203.4. The circumstances underlying the conviction occurred on or about February 9, 1998, and  
19 Respondent was arrested.

20 8) On or about April 10, 1998, after pleading guilty, Respondent was convicted of one  
21 misdemeanor count of violating Penal Code section 242 [battery – not domestic violence] in the  
22 criminal proceeding entitled *The People of the State of California v. Raina Lynn Trussler* (Super.  
23 Ct. Riverside County, 1997, No. INM070680). The Court sentenced Respondent to six (6) days  
24 jail, placed her on 24 months probation, ordered her to have no negative contact with the victim  
25 J.B., and ordered her to complete parenting classes. The circumstances underlying the conviction  
26 are that on or about April 19, 1997, Respondent tested positive for being under the influence of  
27 methamphetamine and amphetamine and, while under the influence and caring for her two (2)  
28 children, struck the children's father on the right side of the neck/face.

1           9)     On or about December 2, 1993, after pleading nolo contendere, Respondent was  
2 convicted of two (2) misdemeanor counts, Count 1, violating Vehicle Code section 23152(a)  
3 [drive while under the influence of alcohol/drugs], and Count 4, violating Business and  
4 Professions Code section 4149 [possess hypodermic needle/syringe] in the criminal proceeding  
5 entitled *The People of the State of California v. Raina Lynn Trussler* (Super. Ct. Santa Barbara  
6 County, 1992, No. 417968). The Court sentenced Respondent to one (1) day jail, and placed her  
7 on 36 months probation. The circumstances underlying the conviction occurred on or about  
8 March 19, 1992, and Respondent was arrested for driving while under the influence and being in  
9 possession of six (6) hypodermic needles and syringes.

10           10)    On or about April 14, 1988, after a plea, Respondent was convicted of one  
11 misdemeanor count of violating Penal Code section 459 [burglary] in the criminal proceeding  
12 entitled *The People of the State of California v. Raina Demorrow* (Super. Ct. San Bernardino  
13 County, 1988, No. FMB1456). On or about July 2, 2008, the Court dismissed the proceeding  
14 pursuant to Penal Code section 1203.4.

## 15                           **SECOND CAUSE FOR DENIAL OF APPLICATION**

### 16   ***(Dishonest Acts)***

17           16.    Respondent's application is subject to denial under section 480, subdivision (a)(2), in  
18 that, Respondent committed acts involving dishonesty, fraud, or deceit with the intent to  
19 substantially benefit herself and others, and substantially injure others when she caused a motor  
20 vehicle accident and failed to stop and provide information. Complainant refers to and, by this  
21 reference incorporates the allegations set forth above in paragraph 15, subparagraphs a(1), a(2),  
22 a(9) and a(10), inclusive, as though set forth fully.

## 23                           **THIRD CAUSE FOR DENIAL OF APPLICATION**

### 24   ***(Conduct Warranting Licensee Discipline)***

25           17.    Respondent's application is subject to denial under section 480, subdivision (a)(3)(A),  
26 in that, Respondent committed acts which, if committed by a licensed registered nurse, would be  
27 grounds for suspension or revocation of the license by violating sections as follows:

28    ///



- 1 a. Sections 490 and 2761, subdivision (f). Respondent sustained substantially related  
2 criminal convictions as set forth above in paragraph 15, subparagraphs a (1) – (10).
- 3 b. Section 2761, subdivision (a)(d), and 2762, subdivision (c). Respondent committed  
4 acts of unprofessional conduct by sustaining criminal convictions involving  
5 alcoholic beverages and/or controlled substances, violating the Nursing Practice  
6 Act, as set forth above in paragraph 15, subparagraphs a(3), a(4), a(5), a(6) and a(7).
- 7 c. Section 2761, subdivision (a)(d), and 2762, subdivision (a). Respondent committed  
8 acts of unprofessional conduct by using controlled substances, dangerous drugs or  
9 alcoholic beverages to an extent or in a manner dangerous or injurious to herself or  
10 others, as set forth above in paragraph 15, subparagraphs a(3), a(4), a(5), a(6) and  
11 a(7).
- 12 d. Section 2761, subdivision (a)(d), and 2762, subdivision (a). Respondent committed  
13 acts of unprofessional conduct on or about March 7, 1995, when she was arrested  
14 for being under the influence of methamphetamines. Subsequently, on or about July  
15 10, 1995, after a plea of guilty pursuant to Penal Code section 1000, Respondent  
16 was placed on Deferred Entry of Judgment for six (6) months for violating Health  
17 and Safety Code section 11550(a) [under the influence of a controlled substance] in  
18 the criminal proceeding entitled *The People of the State of California v. Raina Lynn*  
19 *Trussler* (Super. Ct. San Bernardino County, 1995, No. MMB02048). On or about  
20 January 8, 1996, the Court dismissed the proceeding pursuant to Penal Code section  
21 1203.4.

22 Complainant refers to and by this reference incorporates the allegations set forth above in  
23 paragraph 15, inclusive, as though set forth fully.

24 **PRAYER**

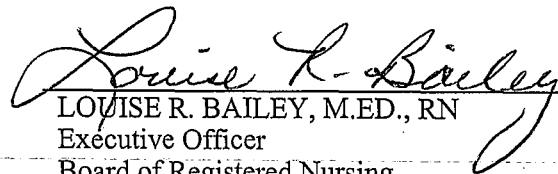
25 *WHEREFORE*, Complainant requests that a hearing be held on the matters herein alleged,  
26 and that following the hearing, the Board issue a decision:

- 27 1. Denying the application of Raina Lynn Demorrow, aka Raina Lynn Trussler, aka  
28 Raina Lynn Rushing, for a Registered Nurse License; and

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2. Taking such other and further action as deemed necessary and proper.

DATED: January 7, 2013



LOUISE R. BAILEY, M.ED., RN  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant